IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Gajendra Kumar Vs. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.5550/2004

DATE OF ORDER :: April 18, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.P.S.Chundawat, for the petitioner.
Mr.B.L.Tiwari, Deputy Government Advocate.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India the petitioner has challenged the order Annexure-4 dt.10.11.2004 placing him under suspension on the ground that a criminal case for the offences under sections 498-A, 323 and 341 I.P.C. is pending against him.

I have heard learned counsel for the parties.

A reply to the writ petition has been filed by the respondents stating therein that the services of the petitioner were terminated by the respondents under the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (for

short `the CCA Rules' hereinafter).

A criminal case was instituted against the petitioner in the year 2002 and it was alleged that the petitioner was remained in judicial custody for some period in the year 2002. Even after a lapse of period of about 5 years, the trial has not been concluded. It is a common fact that the trial before the Judicial Magistrate Courts takes the years together and it is evident from the fact that even after a lapse of about 5 years, the trial is still pending, may be for the reasons that the prosecution witnesses did not come up for making their statements before the trial court. Whatever may be the reasons for such inordinate delay, a person cannot be allowed to remain under suspension, more particularly, the petitioner is approaching to his superannuation. In the circumstances, therefore, keeping in view the peculiar facts and circumstances of the case, in my view, the writ petition deserves to be allowed.

Accordingly, the writ petition is allowed. Order Annexure-4 dt. 10.11.2004 is quashed. The respondents are directed to reinstate the petitioner. Stay petition stands disposed of. There shall be no order as costs.

[H.R.PANWAR],J.

m.asif/-